

ADMINISTRATIVE PANEL DECISION

Skyscanner Limited v. Privacy service provided by Withheld for Privacy ehf / web dev

Case No. D2022-1464

1. The Parties

The Complainant is Skyscanner Limited, United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / web dev, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <skyscannerjets.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 23, 2022. On April 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on April 28, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2022.

The Center appointed Daniel Peña as the sole panelist in this matter on May 30, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is the owner of the following trademarks:

- European Union (“EU”) designation of International Trade Mark Registration No. 900393 for SKYSCANNER (registered on March 3, 2006), covering international classes 35, 38, and 39;
- EU designation of International Trade Mark Registration No. 1030086 for SKYSCANNER, covering international classes 35, 39, and 42.

The Complainant is also the owner of International Trade Mark Registration No. 1030086 for SKYSCANNER, designating registered trademark protection in *inter alia* Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Belarus, Switzerland, China, Egypt, Japan, Mexico, Norway, Russian Federation, Singapore, Turkey, and Ukraine, registered on December 1, 2009, for, the following international classes 35, 39 and 42.

The Complainant has a global portfolio of registered trademarks containing the term SKYSCANNER owned by the Complainant. Among those additional trademark registrations are the following:

- United States designation of International Trade Mark Registration No. 1133058 for SKYSCANNER (& Cloud device);
- Indian Trade Mark Registration No. 1890840 for SKYSCANNER;
- Indian Trade Mark Application No. 2287020 for SKYSCANNER (& Cloud Device);
- United Kingdom Trade Mark Registration No. 2313916 for SKYSCANNER;
- Canadian Trade Mark Registration No. TMA786689 for SKYSCANNER;
- New Zealand Trade Mark Registration No. 816550 for SKYSCANNER.

The Complainant’s website “www.skyscanner.net” attracts 100 million visits per month and, to date, its Skyscanner smart device app has been downloaded over 70 million times. The Complainant’s services are available in over thirty languages and in seventy currencies. As of November 12, 2019, the Complainant’s mentioned website was ranked 1,671st globally for Internet traffic and engagement and 107th in the United Kingdom.

The disputed domain name <skyscannerjets.com> was registered on 7 January 2022. The Complainant has provided evidence that the disputed domain name resolves to a website through which the Respondent offers travel arrangement services.

5. Parties’ Contentions

A. Complainant

The disputed domain name copies the Complainant’s SKYSCANNER trademark in its entirety, the sole addition being the word “jets” which serves to describe a form of private travel. For the purposes of assessing identity and confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain (“gTLD”).

The Respondent does not own any registered rights in any trademarks which comprise part or all of the disputed domain name.

The term “Skyscanner” is not descriptive in any way, nor does it have any dictionary meaning.

The Complainant has not given its consent for the Respondent to use its registered trademarks in a domain name registration.

Given the famous nature of the Complainant’s mark and the fact that no other individual or business owns registered trademark rights in the SKYSCANNER trademark, not only is it likely that the Respondent was aware of the Complainant’s rights prior to registering the domain name but it is inevitable that visitors to the disputed domain name would mistakenly believe there to be an association with the Complainant.

The Complainant has submitted a *prima facie* showing that the Respondent has no rights or legitimate interests in respect of the domain names.

The Complainant submits it is implausible that the Respondent did not have the Complainant’s business in mind at the time the disputed domain name was registered.

Turning to use in bad faith, the disputed domain name points to a website that offers travel arrangement services. In doing so the Respondent uses the disputed domain name to mislead consumers in to believing that the travel arrangement services provided through the website to which the disputed domain name points originate from the Complainant. It is clear that the Respondent targets the Complainant’s reputation in its famous SKYSCANNER trademark in a manner that constitutes bad faith pursuant to the Policy.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademarks SKYSCANNER on the basis of its multiple trademark registrations in several countries. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.2.1).

It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such findings were confirmed, for example, within section 1.7 of the [WIPO Overview 3.0](#).

The Respondent's incorporation of the Complainant's SKYSCANNER trademark in full in the disputed domain name is evidence that the disputed domain name is confusingly similar to the Complainant's mark. Mere addition of the term "jets" in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's SKYSCANNER mark because the Complainant's SKYSCANNER mark remains clearly recognizable in the disputed domain name. As noted in [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element." Furthermore, the addition of the gTLD ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In accordance with paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel observes that there is no relationship, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant.

The Panel concludes that the Respondent deliberately chose to include the Complainant's SKYSCANNER trademark in the disputed domain name, in order to achieve commercial gain by misleading third parties, and that such use cannot be considered as a legitimate noncommercial or fair use. The Panel further finds that the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

Given the above, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name;
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct;
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the

complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

In the Panel's view, a finding of bad faith may be made where the Respondent "knew or should have known" of the registration and/or use of the trademark prior to registering the disputed domain name. In this case, the widespread commercial recognition of the trademark SKYSCANNER is such that the Respondent must have had knowledge of the trademark before registering the disputed domain name.

The Respondent appears to have chosen the disputed domain name in order to deliberately attract Internet users to its website in the mistaken belief that it is a website of the Complainant, or otherwise linked to or authorized by the Complainant. Noting the Complainant's name and trademark is incorporated in the disputed domain name together with the term "jets", the Panel finds that the Respondent had in mind the Complainant's trademark, and registered the disputed domain name to take unfair advantage of its confusing similarity. As such, the Panel is satisfied that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website rendering travel arrangement services by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website.

Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith.

Thus, the Panel concludes that the disputed domain name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <skyscannerjets.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: June 13, 2022